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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,674

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Bernd Waldmann

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REISING, ETHINGTON, BARNES, KISSELLE, P.C.

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EXAMINER

CALLAWAY, JADE R

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

09/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,674

Applicant(s)

WALDMANN ET AL.

Examiner

JADE CALLAWAY

Art Unit

2872

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19, 21, 23-34 is/are pending in the application.
- 4a) Of the above claim(s) 29-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 21 and 23-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 7/9/08 and 8/8/08 have been entered.

Response to Amendment

2. The preliminary amendments to the claims, in the submission dated 8/8/08, are acknowledged and accepted.

Response to Arguments

3. Applicant's arguments with respect to claims 19, 21 and 23-28 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

4. Newly submitted claims 29-34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 19, 21, 23-28, drawn to a cleaning assembly for cleaning an exterior surface comprising a groove extending out of the connector for securing the cleaning assembly in relation to the exterior surface, classified in class 359, subclass 507.

- II. Claims 29-34, drawn to a mirror assembly for a side mirror of a motor vehicle having a cleaning reservoir comprising a mirror support plate fixedly secured to the mirror glass to operatively secure the mirror glass to the side mirror, classified in class 359, subclass 509.
6. Inventions I and II are directed to related products. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have a materially different design, mode of operation and function. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.
7. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:
- (a) the inventions have acquired a separate status in the art in view of their different classification;
 - (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Since applicant has received an action on the merits for the originally presented invention (i.e. Invention I), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 19, 21 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berzin (6,290,361) in view of Kito et al. (JP 03284450 A) (of record).

Consider claim 19, Berzin discloses (e.g. figure 1) a cleaning assembly for cleaning an exterior surface (2, mirror) having first and second edges (top and side of mirror) connecting at a surface corner (edge between the top and side of the mirror), of

a motor vehicle, having a cleaning fluid reservoir (7, air compressor), the cleaning assembly comprising: a connector (8, air conditioning unit) for connecting the cleaning fluid reservoir with the cleaning assembly for receiving fluid therefrom; a groove (long channel) extending (10, universal connector) out of the connector for securing the cleaning assembly in relation to the exterior surface; a distribution chamber (9, air line) in fluid communication with the connector for receiving the fluid received by the connector; and a nozzle (5, air distribution unit) fixedly secured to the distribution chamber for disbursing the fluid over the exterior surface, the nozzle including a nozzle opening (6, air openings) to abut (be adjacent to) the exterior surface whereby the nozzle opening and the exterior surface define a slot opening such that a film of fluid exits the nozzle opening in contact (functional contact) with the exterior surface along first and second edges [col. 4, lines 10-67, col. 5, lines 1-11]. However, Berzin does not disclose that the nozzle opening includes an oblong channel for receiving the surface corner and a portion of the first and second edges thereagainst whereby the fluid is dispensed directly onto the exterior surface through all of the oblong channel to minimize turbulence to facilitate cleaning of the exterior surface. Berzin and Kito et al. are related as devices for cleaning mirrors. Kito et al. teach (e.g. figures 1-3) a nozzle opening (8, blow-off port) that includes an oblong channel for receiving the surface corner and a portion of the first and second edges (top and side of mirror) thereagainst whereby the fluid is dispensed directly onto the exterior surface through all of the oblong channel to minimize turbulence (regulate air spreading angles) to facilitate cleaning of the exterior surface [abstract]. It would have been obvious to a person of ordinary skill

in the art at the time the invention was made to modify the device of Berzin, to include an oblong channel, as taught by Kito et al. so that the air distribution unit may be mounted on the edge of the mirror so that the air flow direction is not changed significantly during adjustments of the mirror position.

Consider claim 21, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly wherein a distribution chamber (Kito et al.; 9, partition) is generally perpendicular to the nozzle opening [Kito et al.; abstract].

Consider claim 23, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly wherein the oblong channel (Kito et al.; 8, blow-off port) defines a depth and a height wherein the depth is a larger than the height [Kito et al.; abstract]. The modified Berzin reference does not specifically disclose that the depth is a multiple larger than the height. Note that the Court has held that mere scaling up or down of a prior art process capable of being scaled up or down would not establish patentability in a claim to an old process so scaled; see **In re Reinhart**, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the dimension of the height and depth of the oblong channel in order to increase the ability to direct blowing air in the system.

Consider claim 24, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly wherein the oblong channel (Kito et al.; 8, blow-off port) defines a cross section that is constant thereacross [Kito et al., abstract].

Consider claim 25, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly including a holder (Kito et al.; 15, holding port) for holding the exterior surface (Kito et al.; 4, mirror body) in a position relative to the nozzle (Kito et al.; 8, blow-off port) [Kito et al.; abstract].

Consider claim 26, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly that defines a C-shaped cross-section (the structures of the cleaning assembly of Kito et al. are generally circular which provides a "C-shaped" cross-section) [Kito et al.; abstract].

Consider claim 27, the modified Berzin reference discloses (e.g. figures 1-3 of Kito et al.) a cleaning assembly including a groove (Kito et al., 13, 14, recessed parts) for receiving a portion of the exterior surface (Kito et al., 4, mirror body) to accurately position the cleaning assembly (Kito et al., 2, blow off nozzle) with respect to the exterior surface [Kito et al.; abstract].

Consider claim 28, the modified Berzin reference does not disclose a cleaning assembly wherein the depth of the nozzle opening is smaller than a depth of the distribution channel. Note that the Court has held that mere scaling up or down of a prior art process capable of being scaled up or down would not establish patentability in a claim to an old process so scaled; see **In re Reinhart**, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the dimension of the nozzle opening to be smaller than a depth of the distribution channel in order to increase the ability to direct blowing air in the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JADE CALLAWAY whose telephone number is (571)272-8199. The examiner can normally be reached on Monday to Friday 7:00 am - 4:30 pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRC
/Jade R. Callaway/
Examiner, Art Unit 2872

/Stephone B. Allen/
Supervisory Patent Examiner
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